

CABINET FOR HEALTH AND FAMILY SERVICES

Department for Community Based Services

Division of Protection and Permanency

(Amended After Comments)

922 KAR 1:290. Background checks for private child-caring or child-placing staff members.

RELATES TO: KRS 17.165, 17.500-17.580, 199.011, 199.642, Chapters 209, 506, 511, 515, 520, 525, 527, 529, 530, 336.220, 620.050-620.120, 34 U.S.C. 20921, 45 C.F.R. 98.43

STATUTORY AUTHORITY: KRS 194A.050(1), 199.640(5)(a), 199.642(8), 42 U.S.C. 671(a)(20)(D)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 194A.050(1) requires the secretary to promulgate administrative regulations necessary to implement programs mandated by federal law, qualify for the receipt of federal funds, and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs. KRS 199.640(5)(a) requires the secretary to promulgate administrative regulations establishing basic standards of care and service for child-caring facilities and child-placing agencies relating to the health and safety of all children in the care of the facility or agency, the basic components for a quality program, and any other factors as may be necessary to promote the welfare of children cared for or placed by the agencies and facilities. KRS 199.642(8) requires the cabinet to promulgate an administrative regulation necessary to implement child-caring or child-placing staff member background checks in accordance with 42 U.S.C. 671(a)(20)(D). This administrative regulation establishes background check requirements for child-caring and child-placing staff members, reporting requirements, and appeals.

Section 1. Definitions.

- (1) "Address check" means a cabinet search of the Kentucky or National Sex Offender Registry to determine if a person's residence is a known address of a registered sex offender.
- (2) "Cabinet" is defined by KRS 199.011(3).
- (3) "Child-caring facility" is defined by KRS 199.011(5).
- (4) "Child-placing agency" is defined by KRS 199.011(6).
- (5) "Kentucky National Background Check Program" or "NBCP" means a background screening program administered by the cabinet in accordance with 906 KAR 1:190.
- (6) "Rap back system" is defined by KRS 199.011(14).
- (7) "Staff member" is defined by KRS 199.642(1).

Section 2. Applicability, Implementation, and Enforcement.

- (1) This administrative regulation shall apply to child-caring or child-placing providers and their prospective and current staff members.
- (2) A person who is a child-caring or child-placing staff member prior to the effective date of this administrative regulation shall submit to and complete background checks in accordance with this administrative regulation no later than July 1, 2023.
- (3) A prospective child-caring or child-placing staff member shall complete the background check process required in accordance with this administrative regulation and have been found to have no disqualifying offense prior to becoming a child-caring or child-placing staff member.
- (4) To assure timely processing of background checks, the cabinet shall prioritize the processing of background checks for prospective child-caring and child-placing staff members.

(5) A current or prospective child-caring or child-placing staff member shall be subject to background checks in accordance with Sections 3 and 4 of this administrative regulation.

Section 3. Procedures and Payments.

(1) To initiate the process of obtaining a background check on a prospective or current child-caring or child-placing staff member, the provider shall:

(a) Request that the staff member provide a copy of his or her driver's license or other government-issued photo identification and verify that the photograph clearly matches the staff member;

(b) Request that the prospective or current staff member complete and sign the:

1. DPP-500, Private Child-Caring or Child-Placing Staff Member Waiver Agreement and Statement; and

2. DPP-501, Disclosures to be Provided to and Signed by the Applicant Private Child-Caring or Child-Placing Staff Member; and

(c) Log on to the NBCP portal and enter the prospective or current staff member's demographic information for a check of the:

1. Child abuse and neglect central registry pursuant to 922 KAR 1:470;

2. National Crime Information Center's National Sex Offender Registry in accordance with 34 U.S.C. 20921; and

3. Sex Offender Registry established in accordance with KRS 17.500 through 17.580.

(2)

(a) In accordance with KRS 199.642, ~~KRS 1336.220~~, and 42 U.S.C. 671(a)(20)(D), a child-caring or child-placing provider shall submit payment via credit or debit card for a state and national fingerprint-supported criminal history background check performed by the Department of Kentucky State Police (KSP) and the Federal Bureau of Investigation (FBI), including the rap back system. If a staff **member is already enrolled in the NBCP and his or her**~~member's~~ rap back has not expired, a new fingerprint check shall not be required, **but payment shall be required in order to receive a copy of the criminal history report.**

(b) A child-caring or child-placing provider enrolled in the Kentucky NBCP shall pay a fee not to exceed twenty-five (25) dollars in addition to any fees charged in accordance with paragraph (a) of this subsection for the actual cost of processing a fingerprint-supported state and national criminal background check and for providing rap back services.

(3) Upon submission of payment in accordance with subsection (2) of this section, the staff member shall:

(a) Have no more than thirty (30) calendar days from the date of payment pursuant to subsection (2) of this section to submit his or her fingerprints at an authorized collection site for NBCP; and

(b) Present his or her driver's license or other government-issued photo identification to the designated agent at an authorized collection site prior to fingerprint submission.

(4) Upon completion of the background checks in accordance with this section and Section 4 of this administrative regulation, the cabinet:

(a) Shall provide notice to the provider within seven (7) business days in accordance with KRS 199.642(5) that the prospective or current staff member is:

1. Eligible for hire or continuation of employment; or

2. Not eligible for hire or continued employment if the prospective or current staff member is found by the cabinet to have a disqualifying background check result in accordance with Section 5 of this administrative regulation;

(b) May release any record of state criminal history found in the files of the Kentucky centralized criminal history record information system to the provider or another entity

included on the waiver in accordance with subsection (1)(b) of this section; and
(c) Shall, upon receipt of written request from an applicant, send a copy of a KSP or FBI criminal history report to the prospective or current staff member by certified mail, restricted delivery service. The staff member shall show proof of identity and sign to receive his or her criminal history report from the local post office.

(5) A provider shall not be obligated to employ or offer employment to an individual who has been found by the cabinet to be eligible for hire pursuant to subsection (4)(a)1. of this section.

(6) A staff member may submit a request for a protection and permanency record in accordance with 922 KAR 1:510.

(7)

(a) If the NBCP portal is not operational, the cabinet may request a federal waiver that would allow a prospective staff member to undergo a:

1. Child abuse and neglect central registry check pursuant to 922 KAR 1:470;
2. Criminal records check conducted by the Kentucky Justice and Public Safety Cabinet or Administrative Office of the Courts;
3. National Crime Information Center's National Sex Offender Registry check in accordance with 34 U.S.C. 20921; and
4. Sex Offender Registry check in accordance with KRS 17.500 through 17.580.

(b) A background check completed through the NBCP portal shall be required as soon as operational.

Section 4. Checks of Other States.

(1) A prospective or current staff member who resides in or has resided in another state within the last five (5) years shall:

(a) Request from each state of current (or prior) residency, in accordance with the state's laws, policies, and procedures, with a courtesy notice to the cabinet:

1. An in-state criminal records check by:
 - a. Means of fingerprints for the state of residence; or
 - b. Any means accepted by a state of prior residency;
2. A check of the state's sex offender registry or repository; and
3. A check of the state-based child abuse and neglect registry and database; and

(b) Direct results of the checks required in paragraph (a) of this subsection to the Department for Community Based Services, Division of Protection and Permanency, 275 East Main Street, 3E-A, Frankfort, Kentucky 40621, or securely send results to privateagencyliaison@ky.gov.

(2) If the prospective or current staff member's current or prior state of residency participates in the FBI's National Fingerprint File Program, the staff member shall be exempt from the requirements of subsection (1)(a)1. of this section.

(3) In accordance with KRS 336.220, a child-caring or child-placing provider shall pay a fee charged by another state for a background check as permitted pursuant to 45 C.F.R. 98.43(f) for a prospective or current staff member.

(4) If another state fails to respond to a check submitted in accordance with subsection (1) of this section within thirty (30) calendar days from the date of the background check's request as verified by the staff member, the cabinet shall:

(a) Process a staff member's background checks and issue notice to the provider in accordance with Section 3(4) of this administrative regulation to ensure compliance with 45 C.F.R. 98.43(e); and

(b) Send notice in accordance with Section 3(4) of this administrative regulation if:

1. Another state provides requested background check results at a later date; and
2. A disqualifying background check result is identified.

Section 5. Disqualifying Background Check Results.

(1) Unless a rehabilitative review pursuant to Section 8 of the administrative regulation determines the individual is eligible to be hired, an individual shall be ineligible to be hired or otherwise serve as a staff member if the individual:

- (a) Meets a criterion specified in 45 C.F.R. 98.43(c);
- (b) Has a felony conviction, entered an Alford plea, a plea of guilty, or a plea of nolo contendere, related to:
 - 1. A spouse, a child, sexual violence, or death as established in 42 U.S.C. 671(a)(2); or
 - 2. Physical abuse, battery, drugs, or alcohol within the five (5) year period prior to the check;
 - 3. KRS Chapter 209, protection of adults;
 - 4. KRS Chapter 506, inchoate offenses;
 - 5. KRS Chapter 511, burglary and related offenses;
 - 6. KRS Chapter 515, robbery;
 - 7. KRS Chapter 520, escape and other offense related to custody;
 - 8. KRS Chapter 525, riot, disorderly conduct, and related offenses;
 - 9. KRS Chapter 527, offenses relating to firearms and weapons;
 - 10. KRS Chapter 529, prostitution offenses; or
 - 11. KRS Chapter 530, family offenses, excluding KRS 530.050;
- (c) Has a criminal conviction relating to child abuse or neglect;
- (d) Has a civil judicial determination related to child abuse or neglect;
- (e) Has been found to have:
 - 1. Committed sexual abuse or sexual exploitation of a child; or
 - 2. Been responsible for a child fatality or near fatality related to abuse or neglect;
- (f) Has been convicted of, or has entered an Alford plea, a plea of guilty, or a plea of nolo contendere to:
 - 1. A sex or violent crime pursuant to KRS 17.165; or
 - 2. An offense under a criminal statute of the United States or of another state similar to an offense specified in this paragraph;
- (g) Is listed on the:
 - 1. Central registry established in accordance with 922 KAR 1:470; or
 - 2. Another state's state-based child abuse and neglect registry or database;
- (h) Has an open warrant for a disqualifying offense established in this subsection; or
- (i) Has a pending charge for a criminal offense specified in this subsection.

(2) An individual who has received a pardon for a disqualifying offense, has had the record expunged, or has evidenced dismissal of a warrant or disqualifying charge may serve as a staff member.

(3) Unless there is a pending informal review, rehabilitative review, or appeal in accordance with Section 6 of this administrative regulation, a provider shall be subject to a cabinet action against the provider's license in accordance with 922 KAR 1:305, if the provider employs a staff member who is ineligible for employment pursuant to subsection (1) of this section.

Section 6. Notice of a Disqualifying Background Check Result and Appeals.

(1) The cabinet shall notify each prospective or current staff member determined to have a disqualifying background check result in accordance with Section 5 of this administrative regulation.

(2) In addition to the cabinet's notification in accordance with subsection (1) of this section, a provider that receives notice from the cabinet that a prospective or current staff member has been determined to have a disqualifying background check result in accordance with Section 5 of this administrative regulation shall notify the staff member of the cabinet's determination within three (3) business days of receipt of the notice.

(3) A prospective or current staff member who receives notice of having a disqualifying background check result in accordance with Section 5 of this administrative regulation may:

(a) Challenge the accuracy of the cabinet's determination by submitting a written request for informal review, including any information the individual wishes to be considered, to the Department for Community Based Services, Division of Protection and Permanency, 275 East Main Street, 3E-A, Frankfort, Kentucky 40621, within ten (10) calendar days of the date of notice in accordance with subsection (1) of this section; or

(b) Request a rehabilitative review pursuant to Section 8 of this administrative regulation.

(4) Upon completion of an informal review upon request pursuant to subsection (3)(a) of this section, the cabinet shall provide written notice of the cabinet's decision to uphold or rescind the notice of disqualifying background check result to the prospective or current staff member.

(5) A prospective or current staff member may appeal the results of an informal review or a rehabilitative review pursuant to Section 8 of this administrative regulation, in accordance with 922 KAR 1:480.

(6) If a prospective or current staff member wishes to challenge the accuracy of a criminal background check, the cabinet shall refer the individual to the appropriate state or federal law enforcement agency.

(7) If a prospective or current staff member challenges the finding that he or she is the true subject of the results from a registry or repository check, the cabinet shall refer the individual to the agency responsible for maintaining the registry or repository.

Section 7. Termination ~~for Relocation~~ of a Staff Member upon Receipt of Notice of a Disqualifying Background Check Result.

(1) If a prospective or current staff member has not requested an informal review or a rehabilitative review in accordance with Section 8 of this administrative regulation, the child-caring or child-placing provider shall:

(a) Terminate the staff member no later than ten (10) calendar days after receipt of notice of the cabinet's determination, including the disqualifying background check result; and

(b) Use the NBCP to provide electronic notification to the cabinet affirming the staff member's dismissal within three (3) business days of termination.

(2)

(a) If a prospective or current staff member requests an informal review or a rehabilitative review in accordance with Section 8 of this administrative regulation, the child-caring or child-placing provider:

1. May retain the staff member pending resolution of the informal review or rehabilitative review; and

2. Shall ensure that the staff member:

a. Is subject to direct, onsite supervision; or

b. Does not have duties or proximity that involves one-on-one contact with a child in care.

(b) A provider shall terminate the staff member if the:

1. Informal review upholds the cabinet's determination of a disqualifying background check result, or the rehabilitative review committee does not grant a waiver; and

2. Staff member does not request an administrative hearing in accordance with Section 6(5) of this administrative regulation, in which the provider shall terminate

the staff member no later than the thirty-first calendar day following written notice of the results of the informal review or rehabilitative review.

(c) If a staff member requests an administrative hearing in accordance with Section 6(5) of this administrative regulation to appeal the decision from an informal review or rehabilitative review, the provider:

1. May retain the staff member pending the appeal's resolution if the staff member:
 - a. Remains subject to direct, onsite supervision; or
 - b. Does not have duties or proximity that involves one-on-one contact with a child in care; and
2. Shall terminate the staff member no later than the thirty-first calendar day from the issuance of the final order if the staff member does not prevail.

(d) Using the NBCP, the provider shall provide electronic notification to the cabinet affirming the individual's dismissal within three (3) business days of the termination.

Section 8. Rehabilitative Review.

(1)

(a) A prospective or current staff member found to have a disqualifying background check result shall be eligible for consideration of rehabilitation under an independent review process.

(b) Consideration of a disqualifying background check result under the rehabilitative review process described in this section shall not apply to:

1. A disqualifying felony offense that occurred less than ten (10) years prior to the date of the criminal background check;
2. Any disqualifying felony or misdemeanor offense related to abuse, neglect, or exploitation of a child;
3. Registration as a sex offender under federal law or under the law of any state;
4. A sex or violent crime as defined by KRS 17.165; or
5. A child abuse and neglect substantiated finding that:
 - a. Occurred less than seven (7)~~five (5)~~ years prior to the date of the registry check; or
 - b. Involved:
 - (i) Sex abuse or sex exploitation of a child;
 - (ii) A child fatality related to abuse or neglect; or
 - (iii) A near fatality of a child related to abuse or neglect.

(2)

(a) A prospective or current staff member may submit a written request for a rehabilitative review to the cabinet no later than fourteen (14) calendar days from the date of the notice of the cabinet's determination issued pursuant to Section 3(4) or 6(4) of this administrative regulation regarding a determination of a disqualifying background check result.

(b) If a prospective or current staff member requests a rehabilitative review, the staff member:

1. May be retained by the provider pending the rehabilitative review; and
2. Shall be subject to restrictions and termination in accordance with Section 7 of this administrative regulation.

(3) The request for a rehabilitative review shall include the following information:

(a) A written explanation of each disqualifying background check result, including:

1. A description of the events related to the disqualifying background check result;
2. The number of years since the occurrence of the disqualifying background check result;
3. The age of the individual at the time of the disqualifying background check result; and

4. Any other circumstances surrounding the disqualifying background check result;
 - (b) Official documentation showing that all fines, including court-imposed fines or restitution, have been paid or documentation showing adherence to a payment schedule, if applicable;
 - (c) The date probation or parole was satisfactorily completed, if applicable;
 - (d) Employment and character references, including any other evidence demonstrating the ability of the individual to perform the employment responsibilities and duties competently; and
 - (e) Evidence that the individual has pursued or achieved rehabilitation with regard to a disqualifying background check result.
- (4) A rehabilitative review shall be conducted by a committee of three (3) employees of the cabinet, none of whom were responsible for determining that the individual has a disqualifying background check result.
- (5) The committee shall consider the information required under subsection (3) of this section, and shall also consider mitigating circumstances including:
- (a) The amount of time that has elapsed since the disqualifying background check result;
 - (b) The lack of a relationship between the disqualifying background check result and the position for which the individual has applied; and
 - (c) Evidence that the applicant has pursued or achieved rehabilitation with regard to the disqualifying background check result.
- (6) No later than thirty (30) calendar days from receipt of the written request for the rehabilitative review, the cabinet shall send the committee's determination on the rehabilitation waiver to the prospective or current child care staff member.
- (7) The decision of the committee shall be subject to appeal in accordance with Section 6(5) of this administrative regulation.
- (8) A provider shall not be obligated to accept an individual who is granted a waiver pursuant to this section as a staff member.

Section 9. Status of Employment.

- (1) A provider shall maintain the employment status of each staff member who has submitted to a fingerprint-based criminal background check by reporting the status using the NBCP Web-based system.
- (2) The cabinet shall inspect a provider to verify conformity with this administrative regulation.

Section 10. Incorporation by Reference.

- (1) The following material is incorporated by reference:
 - (a) "DPP-500, Private Child-Caring or Child-Placing Staff Member Waiver Agreement and Statement", 04/2022; and
 - (b) "DPP-501, Disclosures to be Provided to and Signed by the Applicant Private Child-Caring or Child-Placing Staff Member", 04/2022.
- (2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Department for Community Based Services, 275 East Main Street, Frankfort, Kentucky 40621, Monday through Friday, 8 a.m. to 4:30 p.m. This material may also be viewed on the department's Web site at <https://chfs.ky.gov/agencies/dcbs/Pages/default.aspx>.

MARTA MIRANDA-STRAUB, Commissioner
ERIC C. FRIEDLANDER, Secretary

APPROVED BY AGENCY: September 7, 2022
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REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Laura Begin or Krista Quarles

(1) Provide a brief summary of:

(a) What this administrative regulation does:

This administrative regulation establishes requirements for fingerprint-based state and national criminal background checks for prospective and current private child-caring and child-placing staff members, as defined by KRS 199.642(1), and includes reporting requirements and an appeals process. This administrative regulation also incorporates forms required in order to obtain a background check.

(b) The necessity of this administrative regulation:

42 U.S.C. 671(a)(20)(D) includes that any child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, conduct criminal records checks, including fingerprint-based checks of national crime information databases and checks on any adult working in these facilities. Senate Bill 40 from the 2020 Regular Session of the General Assembly amended KRS 199.642(2) to require that private child-caring and child-placing staff members, as defined by KRS 199.642(1), shall submit to national and state fingerprint-supported criminal background checks. The utilization and implementation of additional fingerprint-based background checks was delayed during the COVID-19 pandemic and Kentucky operated under a federal waiver in which name-based background checks were completed temporarily. However, utilization of the National Background Check Program has resumed and capacity has been increased to include checks for these specific individuals and Department for Community Based Services front-line staff.

(c) How this administrative regulation conforms to the content of the authorizing statutes:

This administrative regulation conforms to the content of the authorizing statutes by establishing requirements for fingerprint-based state and national criminal background checks for these prospective and current staff members.

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes:

This administrative regulation assists in the effective administration of the statutes by establishing requirements for fingerprint-based state and national criminal background checks for these staff members.

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation:

This is a new administrative regulation. This proposed administrative regulation is being amended in response to comments received during the public comment period. The administrative regulation is being clarified to address the instance of a prospective or current staff member already enrolled in a National Background Check Program, to remove an erroneous word from a section title, and to amend the timeframe for which a substantiated finding of child abuse or neglect may be considered under the rehabilitative review process for consistency with other background check programs.

(b) The necessity of the amendment to this administrative regulation:

The proposed administrative regulation is being amended in response to comments received during the public comment period. These amendments provide clarification and consistency between programs.

(c) How the amendment conforms to the content of the authorizing statutes:

The proposed amendments provide clarification and are consistent with authorizing statutes.

(d) How the amendment will assist in the effective administration of the statutes:

The proposed amendments provide clarification and are consistent with authorizing statutes.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation:

Private child-caring or child-placing agencies will be required to have prospective and current staff undergo state and national criminal background checks. Data from the Office of Inspector General states that there are 1,352 private child-caring employees statewide and 1,066 private child-placing employees statewide. Approximately 180 agencies will be affected.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment:

A current private agency staff member meeting the definition established in KRS 199.642(1) will be required to submit to a fingerprint-based state and national criminal background check by July 2, 2023. A prospective private child-caring or child-placing staff member shall complete the background check process required in accordance with this administrative regulation and have been found to have no disqualifying offense prior to becoming a child-caring or child-placing staff member.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3):

Cabinet data indicates approximately 2,500 staff members being impacted by this requirement across approximately 180 private agencies. The cost to the private agencies is \$63.25 per check and includes a continuous rap back system check for five (5) years.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3):

The processes and requirements contained in this administrative regulation will ensure that private agency staff who are working closely with vulnerable children, sometimes day and night, have undergone a thorough check of state and national registries and records and no disqualifying offenses against them were found. This administrative regulation also ensures compliance with statute.

(5) Provide an estimate of how much it will cost the administrative body to implement this administrative regulation:

(a) Initially:

This administrative regulation includes administrative duties for the cabinet, but the administrative cost will be absorbed within appropriations.

(b) On a continuing basis:

The administrative cost will be absorbed within appropriations.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation:

General funds.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment:

There is not an increase in fees, but this administrative regulation does establish a new fee for private child-care and child-placing agencies. The cost of this statutorily-required national and state background check is \$63.25 per check.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees:

This administrative regulation does include a new fee for private child-care and child-placing agencies. The cost of this statutorily-required national and state background check is \$63.25 per check.

(9) TIERING: Is tiering applied?

Tiering is not applicable as this administrative regulation applies equally to all individuals meeting the statutory definition of “staff member” established by KRS 199.642(1).

FEDERAL MANDATE ANALYSIS COMPARISON

(1) Federal statute or regulation constituting the federal mandate.

42 U.S.C. 671(a)(20)(D)

(2) State compliance standards.

KRS 194A.050(1), 199.640(5)(a), 199.642(8)

(3) Minimum or uniform standards contained in the federal mandate.

42 U.S.C. 671(a)(20)(D) includes that any child-care institution, including a group home, residential treatment center, shelter, or other congregate care setting, conduct criminal records checks, including fingerprint-based checks of national crime information databases and checks on any adult working in these facilities.

(4) Will this administrative regulation impose stricter requirements, or additional or different responsibilities or requirements, than those required by the federal mandate?

Yes, this administrative regulation imposes additional requirements that are necessary for compliance with state law.

(5) Justification for the imposition of the stricter standard, or additional or different responsibilities or requirements.

This administrative regulation necessary for compliance with federal and state laws regulating private child-caring and child-placing staff.

FISCAL NOTE

(1) What units, parts, or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation?

The Cabinet for Health and Family Services is impacted by this administrative regulation. The Department for Community Based Services regulates these providers and staff and the Office of Inspector General houses the National Background Check Program in Kentucky and licenses these private agencies, ensuring compliance with regulatory requirements. These checks are administered through the Kentucky State Police.

(2) Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation.

KRS 194A.050(1), 199.640(5)(a), 199.642(8), 42 U.S.C. 671(a)(20)(D).

(3) Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year?

This administrative regulation will generate no revenue. Fees collected by the Kentucky State Police for the purpose of conducting the background check do not exceed the actual cost of performing the check.

(b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years?

This administrative regulation will generate no revenue. Fees collected by the Kentucky State Police for the purpose of conducting the background check do not exceed the actual cost of performing the check.

(c) How much will it cost to administer this program for the first year?

Minimal administrative costs absorbed by the cabinet.

(d) How much will it cost to administer this program for subsequent years?

Minimal administrative costs absorbed by the cabinet.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation:

(4) Estimate the effect of this administrative regulation on the expenditures and cost savings of regulated entities for the first full year the administrative regulation is to be in effect.

(a) How much cost savings will this administrative regulation generate for the regulated entities for the first year?

This administrative regulation seeks to ensure the protection of children and the cost savings of preventing the maltreatment of children cannot be estimated with certainty.

(b) How much cost savings will this administrative regulation generate for the regulated entities for subsequent years?

This administrative regulation seeks to ensure the protection of children and the cost savings of preventing the maltreatment of children cannot be estimated with certainty.

(c) How much will it cost the regulated entities for the first year?

The requirements contained in this administrative regulation will be effective with the administrative regulation for new staff. Regulated entities will have until July 2, 2023, to meet the requirements contained in this administrative regulation for existing staff. Therefore, the cost of \$63.25 per background check will be realized as new staff are hired and as an agency chooses to conduct the checks for already-existing staff prior to July 2, 2023.

(d) How much will it cost the regulated entities for subsequent years?

The cost of these background checks realized by regulated entities is \$63.25 per background check. Cabinet data indicates approximately 2,500 staff members being impacted by this requirement across approximately 180 private agencies. Staffing is expected to increase as higher rates for care have been provided, approximately a staffing increase of 500 for fiscal estimate purposes. This cost includes a continuous rap back system check for five (5) years (at least five years of continuous background checks without additional fee). Dividing 3,000 staff by 180 agencies multiplied by \$63.25 results in an average cost of \$1,054.17 per regulated entity to be realized over the next 15 months.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Cost Savings (+/-):

Expenditures (+/-):

Other Explanation:

(5) Explain whether this administrative regulation will have a major economic impact, as defined below.

"Major economic impact" means an overall negative or adverse economic impact from an administrative regulation of five hundred thousand dollars (\$500,000) or more on state or local government or regulated entities, in aggregate, as determined by the promulgating administrative bodies. [KRS 13A.010(13)] No, this administrative regulation is not anticipated to have an economic impact of \$500,000 or more. The average cost per regulated entity is estimated to be \$1,054.17 to meet the requirements of this administrative regulation.